

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**CYNTHIA RADER**

Claimant

VS.

**U.S.D. 259**

Self-Insured Respondent

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Docket No. 1,041,846

**ORDER**

**STATEMENT OF THE CASE**

Claimant requested review of the December 16, 2009, order approving a settlement entered by Special Administrative Law Judge John C. Nodgaard. The Board heard oral argument on March 24, 2010. Claimant appears pro se. Vincent A. Burnett, of Wichita, Kansas, appeared for the self-insured respondent.

The Special Administrative Law Judge (ALJ) found the proposed settlement to be fair, just and reasonable and ordered respondent to pay claimant \$69,000 for a full, final and complete settlement of all claims arising out of the injury.

The Board has considered the record, which consists of the transcript of the Settlement Hearing held December 16, 2009, and attachments, together with the pleadings contained in the administrative file.

**ISSUES**

Claimant asks the Board to set aside the settlement of her workers compensation claim. She contends she was given insufficient and false information by her attorney and respondent before the settlement hearing.

Respondent is not contesting claimant's request and suggests the Board enter a formal order setting aside the order of SALJ Nodgaard approving the settlement of claimant's workers compensation claim.

**FINDINGS OF FACT**

On September 8, 2008, claimant filed an Application for Hearing claiming injuries to her "left shoulder, neck, back, bilateral hips and all body parts affected thereby" caused

by “lifting and normal work activities” August 19, 2008 and each working day thereafter.<sup>1</sup> On December 16, 2009, claimant appeared with her then attorney, Roger Riedmiller,<sup>2</sup> and counsel for respondent for a hearing to approve a settlement in full of her workers compensation claim. During the hearing, claimant answered in the affirmative all the SALJ’s questions concerning her understanding of the settlement, including that she understood she would be responsible for the payment of any medical expenses incurred in the future for treatment of her work-related injuries. Claimant also testified that she understood she was giving up certain rights under the workers compensation laws, including the right to appeal and the right to review and modification of her award.

Attached to the transcript of the Settlement Hearing was the report of Dr. Pedro Murati, who had examined claimant on July 20, 2009, and rated her as having a 31 percent permanent partial impairment to the body as a whole. The Amended Worksheet for Settlement, also attached to the transcript of the Settlement Hearing, shows that the \$69,000 settlement was based on a strict compromise lump sum settlement and represented an approximate 55 percent permanent partial general bodily disability. The worksheet indicated the settlement was a full and final settlement closing all claims claimant had or may have had up to her last day worked at respondent. After reviewing the settlement worksheet, hearing statements of counsel for the parties, and hearing the testimony of claimant, the ALJ found the proposed settlement was fair, just and reasonable and ordered respondent to pay claimant \$69,000 in full, final and complete settlement of all claims arising out of her injury.

The day after the settlement hearing, December 17, 2009, claimant wrote letters to Mr. Riedmiller and respondent revoking the settlement and firing Mr. Riedmiller as her attorney. According to the brief filed by respondent, Mr. Riedmiller returned the settlement check to respondent.

Claimant appealed the settlement to the Board, arguing that Mr. Riedmiller did not sufficiently prepare her for the settlement hearing. She stated that Mr. Riedmiller failed to inform her that by not keeping her medical open, she would not be able to purchase insurance that would cover treatment of her work-related injuries. She also claims the settlement worksheet was inaccurate when it stated that no future medical expenses were anticipated and that she had not applied for Social Security disability benefits.<sup>3</sup>

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<sup>1</sup> K-WC E-1, Application for Hearing filed September 8, 2008.

<sup>2</sup> Mr. Riedmiller is actually claimant’s second attorney. Her first attorney of record, Brian Collignon, withdrew from the case, and an Order of Withdrawal was entered by ALJ Klein on April 21, 2009. Mr. Riedmiller filed a Motion to Withdraw on December 30, 2009. A hearing was held before the ALJ on the Motion to Withdraw on January 12, 2010, and an Order of Withdrawal was entered by ALJ Klein the same day.

<sup>3</sup> Claimant’s brief to the Board also mentions several complaints concerning Mr. Riedmiller and respondent that do not involve her workers compensation claim, such as payment of union dues, reimbursement for unused sick leave and withdrawals from KPERS. Also, none of the exhibits attached to claimant’s brief are a part of the record on appeal.

Respondent does not argue that claimant is not entitled to have the settlement set aside and suggests that the Board enter an order to that effect.

During the oral argument to the Board on March 24, 2010, both parties reiterated their desire that the Board enter an order setting aside the judgment.

**CONCLUSION**

Having reviewed the evidentiary record herein and pursuant to the agreement of the parties, the Board finds and concludes that the settlement heard and approved on December 16, 2009, should be set aside and held for naught.

**AWARD**

**WHEREFORE**, it is the finding, decision and order of the Board that the order of Special Administrative Law Judge John C. Nodgaard dated December 16, 2009, is reversed and the settlement of that date is hereby set aside. This matter is remanded to the administrative law judge for further proceedings.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of March, 2010.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Cynthia Rader, P.O. Box 8606, Wichita, KS, 67208  
Roger A. Reidmiller, Claimant's Former Attorney  
Vincent A. Burnett, Attorney for Self-Insured Respondent  
John C. Nodgaard, Special Administrative Law Judge  
Thomas Klein, Administrative Law Judge